

The Honorable Richard A. Jones

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

METH LAB CLEANUP, LLC, an Idaho
limited liability company,

Plaintiff,

v.

BIO CLEAN, INC., a Washington
Corporation, and THERESA BORST, an
individual,

Defendants.

Case No. 2:14-cv-01259-RAJ

**DECLARATION OF DEREK
LINKE IN SUPPORT OF
COUNTERCLAIM PLAINTIFF
BIO CLEAN, INC.'S MOTION
FOR ENTRY OF DEFAULT
AGAINST COUNTERCLAIM
DEFENDANT METH LAB
CLEANUP LLC**

NOTE ON MOTION CALENDAR:
November 26, 2014

BIO CLEAN, INC., a Washington corporation,

Counterclaim Plaintiff,

v.

METH LAB CLEANUP LLC, an Idaho
limited liability company,

Counterclaim Defendant.

1 I, Derek Linke, declare as follows:

2 1. I am over the age of eighteen years and competent to testify in this matter. I
3 am counsel of record for Defendant and Counterclaim Plaintiff Bio Clean, Inc. and
4 Defendant Theresa Borst, and testify from my own personal knowledge.

5 2. On August 15, 2014, Meth Lab Cleanup initiated this trademark-
6 infringement action against Bio Clean, Inc. and Theresa Borst.

7 3. On October 15, 2015 Bio Clean filed its Answer, Affirmative Defenses, and
8 Counterclaims (Counterclaims) (Dkt. #17) in response to Meth Lab Cleanup's
9 Complaint.

10 4. Bio Clean's Counterclaims affirmatively seek a judgment of affirmative
11 relief against Meth Lab Cleanup: the cancellation of Meth Lab Cleanups' federal
12 trademark registrations on the grounds that they are generic for "meth lab cleanup
13 services" and were obtained based on fraudulent representations to the U.S. Patent
14 & Trademark Office during prosecution. (Counterclaims, Prayer for Relief.)

15 5. Bio Clean served its Counterclaims on Meth Lab Cleanup when I filed it
16 with the Court's ECF system, which delivered a copy to Meth Lab Cleanup's counsel of
17 record, as indicated on my Certificate of Service included in the Counterclaims.

18 6. Under Rule 12(a)(B), Meth Lab Cleanup's response to Bio Clean's
19 Counterclaims was due within 21 days of the October 15 service, which was November 5,
20 2014.

21 7. Meth Lab Cleanup did not file and serve a response to Bio Clean's
22 Counterclaims by November 5, 2014. (*Id.* ¶ 7.)

23 8. On November 12, 2014, Meth Lab Cleanup still had not responded to Bio
24 Clean's Counterclaim.

25 9. So on November 12, 2014, my co-counsel, Defendants' lead counsel Robert
26 Waters, provided written notice to Meth Lab Cleanup's counsel of record of Bio Clean's
27 intention to seek entry of default within fourteen days if Meth Lab Cleanup did not
28 respond to Bio Clean's Counterclaims. Mr. Waters provided the notice in an email to

1 Meth Lab Cleanup's counsel of record, Michael Atkins. A true and correct copy of Mr.
2 Waters' email, on which I was copied when it was sent, is attached hereto as **Exhibit A**.

3 10. It has been fourteen days since Bio Clean provided written notice of its
4 intention to move for entry of default on November 12, 2014.

5 11. Meth Lab Cleanup has not filed and served an answer to Bio Clean's
6 Counterclaims or otherwise defended them.

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8 Executed under penalty of perjury under the laws of the United States on
9 November 26, 2014 at Seattle, Washington.

10
11 s/ Derek Linke
12 Derek Linke
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